

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Navarre et al.) I hereby certify that this paper is being
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Examiner: Paul Kim) <u>/Daniel J. Glitto/</u>) Daniel J. Glitto

BRIEF ON APPEAL

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the Notice of Appeal filed with the United States Patent and Trademark Office on December 10, 2009, in connection with the above-identified patent application, the applicants respectfully submit the instant Brief on Appeal in accordance with 37 C.F.R. § 41.37.

I. Real Party In Interest

The above-referenced patent application has been assigned to AT&T Knowledge Ventures, L.P., which is the real party in interest to this appeal, by SBC Properties, L.P. The assignment to AT&T Knowledge Ventures, L.P. from SBC Properties, L.P. is recorded in the United States Patent and Trademark Office (“PTO”) at Frame 0689 of Reel 014015. The above-referenced patent application was previously assigned to SBC Properties, L.P. by SBC Holdings Properties, L.P. The assignment to SBC Properties, L.P. from SBC Holdings Properties, L.P. is recorded in the PTO at Frame 0368 of Reel 020200. The above-referenced patent application was previously assigned to SBC Holdings Properties, L.P. by Ameritech Properties, Inc. The assignment to SBC Holdings Properties, L.P. from Ameritech Properties, Inc is recorded in PTO at Frame 0542 of Reel 013974. The above-referenced patent application was previously assigned to Ameritech Properties, Inc. by Ameritech Corporation. The assignment to Ameritech Properties, Inc. from Ameritech Corporation is recorded in the PTO at Frame 0525 of Reel 013986. The above-referenced patent application was previously assigned to Ameritech Corporation by the inventors, Gloria J. Navarre and Jakob De Haan. The assignment Ameritech Corporation from the inventors, Gloria J. Navarre and Jakob De Haan is recorded in the PTO at Frame 0440 of Reel 009014.

II. Related Appeals and Interferences

The applicants filed a Notice of Appeal and a Pre-Appeal Brief Request for Review in connection with the present application (U.S. Patent Application Serial No. 10/767,411) on September 14, 2007. The PTO issued a Panel Decision on November 5, 2007, holding that the appeal shall proceed to the Board of Patent Appeals and Interferences (“BPAI”). The applicants filed an Appeal Brief on December 5, 2007. Before the Appeal Brief was docketed for appeal by the BPAI, the Examiner issued on non-final Office action rejecting the pending claims on February 21, 2008.

The applicants filed a Notice of Appeal and a Pre-Appeal Brief Request for Review in connection with the present application (U.S. Patent Application Serial No. 10/767,411) on December 11, 2008. The PTO issued a Panel Decision on January 9, 2009, reopening prosecution and withdrawing the rejections of the final Office action that formed the basis for the Notice of Appeal.

The applicants filed a Notice of Appeal and a Pre-Appeal Brief Request for Review in connection with the present application (U.S. Patent Application Serial No. 10/767,411) on December 10, 2009. The PTO issued a Panel Decision on January 29, 2010, holding that the appeal shall proceed to the BPAI. In response to the Panel Decision of January 29, 2010, the applicants hereby submit this Brief on Appeal.

III. Status of the Claims

Currently, claims 1-20 are pending in this application. The pending claims are presented in Appendix A to this brief. Claims 1-20 are rejected and form the subject matter of this appeal.

IV. Status of the Amendments

The only amendment that was made in this application has been entered. The sole amendment made during the prosecution of the present application is the addition of claim 20 to the original claim set on October 24, 2006. Throughout the protracted prosecution of this application – which includes eight responsive submissions by the applicants – no amendments have been needed to overcome the rejections. No amendments were filed after the final Office action on which the present appeal is based. No further amendments are necessary.

V. Summary of the Claimed Subject Matter

Although reference numerals and specification citations are inserted below in accordance with 37 C.F.R. § 41.37(c), these reference numerals and specification citations are merely examples of where support may be found in the specification for the terms used in this section of the brief. There is no intention to suggest that the terms of the claims are limited to the examples in the specification. As demonstrated by the reference numerals and specification citations below, the claims are fully supported by the specification as required by law. Nevertheless, it is improper to read limitations from the specification into the claims. Pointing out specification support for the claim terminology, as is done here to comply with 37 C.F.R. 41.37(c), does not limit the scope of the claims to those examples from which they derive support. Nor does this exercise provide a mechanism for circumventing the law precluding reading limitations into the claims from the specification. In sum, the reference

numerals and specification citations are not to be construed as claim limitations nor are they to be used in any way to limit the scope of the claims.

Independent claim 1 is directed to a method. The method of claim 1 includes transmitting a set of data access transactions to respective applications (FIG. 3, element 330), wherein at least some of the set of data access transactions comprise a first optional data item (FIG. 3, element 340), and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item (Specification, page 24, lines 17-27); and integrating the set of responses received from the respective applications (FIG. 3, element 350).

Independent claim 10 is directed to a system. The system of claim 10 includes a plurality of applications (FIG. 2, elements 230, 240 and 250; FIG. 4, elements 430, 440, and 450); and a processor (FIG. 1, element 100) in communication with the plurality of applications, the processor being operative to transmit a set of data access transactions to the respective applications (FIG. 3, element 330) and integrate a set of responses to the set of data access transactions from the respective applications (FIG. 3, element 350); wherein at least some of the set of data access transactions comprise a first optional data item (FIG. 3, element 340), and wherein the plurality of applications are operative to process the set of data access transactions even when the plurality of applications do not recognize the first optional data item (Specification, page 24, lines 17-27).

Independent claim 20 is directed to a computer-readable storage medium comprising a set of instructions to direct a processor (FIG. 1, element 100) to perform acts of: transmitting a set of data access transactions to respective applications (FIG. 3, element 330), wherein at least some of the set of data access transactions comprise a first optional data item (FIG. 3, element 340), and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data

item (Specification, page 24, lines 17-27); and integrating the set of responses received from the respective applications (FIG. 3, element 350).

VI. Grounds of Rejection to be Reviewed on Appeal

The rejections of claims 1-4, 6-8, 10-14, 16-18, and 20 under 35 U.S.C. §103 as unpatentable over Cloud et al. (U.S. Patent No. 5,634,127) in view of Messenger et al. (U.S. Patent No. 5,051,947) and further in view of Velissaropoulous et al. (U.S. Patent No. 5,659,727) form grounds of rejection to be reviewed on appeal.

Additionally, the rejections of claims 9 and 19 under 35 U.S.C. § 103 as unpatentable over Cloud et al., in view of Messenger et al., in view of Velissaropoulous et al., and further in view of Ferguson et al. (U.S. Patent No. 5,819,092) form grounds of rejection to be reviewed on appeal.

VII. Argument

A. Brief Summary of Prosecution History

Before proceeding to the merits of the final Office action from which the instant appeal arises, a brief synopsis of the protracted prosecution history of the present application is provided. The prosecution of the present application has been unnecessarily lengthy and is replete with instances of the applicants successfully overcoming prior art rejections without need for amendment; the present rejection is no different. Throughout the six-plus year pendency of the present application— which includes seven (7) Office actions issued by the examiner, three (3) Notices of Appeal filed by the applicants, three (3) Pre-Appeal Requests for Review, three (3) Pre-Appeal Panel Decisions, and two (2) Appeal Briefs filed by the applicants – the pending claims have not once been amended. Rather, the applicants have repeatedly demonstrated that each rejection of the pending claims is deficient.

During prosecution, the applicants were compelled to file three Notices of Appeal at a cost of approximately \$2,630 in Patent Office fees alone (i.e., not including attorney's fees or

other expenses). The first appeal resulted in withdrawal (by the examiner after filing of an Appeal Brief) of the rejections that formed the grounds of appeal. Similarly, the second appeal resulted in withdrawal (as held by a Pre-Brief Appeal Conference Panel) of the rejections that formed the grounds of appeal. The applicants fully expect the instant, that is, the third, appeal process to result in allowance of the pending claims or, at least, withdrawal of the current rejections.

In addition to the previous successful appeals described above, the applicants filed three responses to non-final Office actions during the prosecution of the present application. Each of these responses resulted in eventual withdrawal of the respective rejections.

A brief summary of each rejection asserted against the pending claims follows.

1. Non-Final Office action issued July 20, 2006

In the first non-final Office action, independent claims 1 and 10 were rejected as anticipated under 35 U.S.C. §102 by Cloud et al. The applicants filed a response traversing these rejections without amending claims 1 or 10 and adding independent claim 20. By way of their response, the applicants persuaded the examiner that, in fact, Cloud et al. failed to anticipate claims 1 and 10.

2. Non-Final Office action issued January 26, 2007

In the second non-final Office action, independent claims 1, 10, and 20 were rejected as unpatentable under 35 U.S.C. §103 over Cloud et al. in view of Cook (U.S. Patent No. 6,732,101). The applicants filed a response traversing these rejections without amendment claims 1, 10, or 20. As explained below, the examiner was not persuaded and proceeded to make a final rejection that he later withdrew.

3. Final Office action issued on July 18, 2007

In the first final Office action, the §103 rejections of the non-final Office action issued on January 26, 2007, were maintained. The applicants were compelled to file a Pre-Appeal Brief Request for Review and a subsequent Appeal Brief, each without amending claims 1, 10, or 20. The Appeal Brief resulted in withdrawal of the §103 rejections without requiring any claim amendments.

4. Non-Final Office action issued February 21, 2008

In the third non-final Office action, independent claims 1, 10, and 20 were rejected as unpatentable under 35 U.S.C. §103 over Cloud et al. in view of Messenger et al. The applicants filed a response traversing these rejections without amendment claims 1, 10, or 20. As explained below, the examiner was not persuaded and proceeded to make a final rejection that the Pre-Appeal Panel overturned.

5. Final Office action issued August 11, 2008

In the second final Office action, the §103 rejections of the non-final Office action issued on February 21, 2008, were maintained. The applicants were compelled to file a Pre-Appeal Brief Request for Review. The Panel reviewing the Pre-Appeal Brief held that the §103 rejections were withdrawn without requiring any claim amendments.

6. Non-Final Office action issued March 10, 2009

In the fourth non-final Office action, independent claims 1, 10, and 20 were rejected as unpatentable under 35 U.S.C. §103 over Cloud et al. in view of Cook and further in view of Velissaropoulous et al. The applicants filed a response traversing these rejections without amendment claims 1, 10, or 20.

7. Final Office action issued September 30, 2009

In the third final Office action, the §103 rejections of the non-final Office action issued on March 10, 2009, were maintained. The applicants were compelled to file a Pre-Appeal Brief Request for Review and the instant Appeal Brief.

In sum, the applicants have prevailed in each instance without amending the claims and it is believed that the outcome of this appeal should be no different. At each stage of the prosecution, the applicants have furthered prosecution by accurately interpreting the cited art as it relates to the claims and pointing out the deficiencies of the art. Conversely, the examiner has unduly prolonged the prosecution of the present application by inaccurately interpreting and applying prior art to the claims. As demonstrated below, the most recently asserted rejections of the claims are also deficient. According, the applicants respectfully submit that the pending claims are in condition for allowance.

B. The rejections of independent claims 1, 10, and 20 under 35 U.S.C. §103 as unpatentable over Cloud et al. in view of Messenger et al. and further in view of Velissaropoulous et al. are deficient

1. Independent claim 1

Independent claim 1 recites a method including, *inter alia*, transmitting a set of data access transactions to a plurality of applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item.

As described in the specification of the present application, in one example method, a communication network can be ‘release independent.’ That is, if one application of the communication network is updated, modified, or adds an aspect by way of a new release, the

method enables continued operation of the communication network without having to first update, modify or add the new aspect to other applications of the communication network.

An example of the release independence provided by the method recited in claim 1 is described in the specification of the present application. The following example from the present specification is revisited here for purposes of illustration and not limitation. An example government information network includes a first server application for a first county (e.g., DuPage County of Illinois) and a second server application for a second county (e.g., Cook County). Each of the server applications implements, in part, a search of the respective county's records in response to a query. To implement these searches, each of the server application stores records according to one or more data items such as, for example, first name, middle name, date of birth, social security number (SSN), etc. One or more of the data items in the communication network may be optional items, such as SSNs.

In the communication network of this example, the first server application does not keep a record of a person's SSN, while the second server application does keep a record of a person's SSN. Further, a client application may send a single query to both the first and second server applications. In some instances, the client application conveys a SSN with a query because at least the second server application stores SSN information in association with its records. However, the first server application, which does not keep a record of a person's SSN, will also receive the query from the client application. Thus, when the first server application receives the query including the SSN, the first server application does not recognize the SSN data item. However, by utilizing the method recited in claim 1, although the first server application does not recognize the SSN data item of the query, the first server application processes other data items of the query.

Suppose a third county (e.g., Kane County) is added to the communication network. Moreover, a release of a corresponding third server application includes eye color as a data

item associated with records stored therein. In other words, the third server application can recognize eye color data items that accompany queries. Using the method recited in claim 1, the first and second server applications can continue to facilitate searches without any updates related to the release of eye color as a potential data item for queries. In other words, the method recited in claim 1 enables the server applications of the communication network to be released independent. That is, using the method recited in claim 1, the first and second server applications process sets of data transactions including eye color data items even when the first and second server applications do not recognize the eye color data item. The first and second server applications do not recognize the eye color data item because, in this example scenario, the first and second server applications are not (yet) updated to include such a data item in response to a release of the third server application and the newly available data item of eye color for queries. While the first and second server applications may eventually be updated to include eye color as a searchable data item, the communication network can remain operational in the interim even when some server applications receive unrecognized types of data items.

2. The §103 rejection of independent claim 1

Velissaropoulos et al. is cited in the Office action to cure admitted deficiencies of Cloud et al. and Messenger et al. In particular, Velissaropoulos et al. is cited in the §103 rejection of claim 1 because Cloud et al. and Messenger et al. admittedly fail to teach or suggest applications processing a set of data access transactions even when the applications do not recognize an optional data item, as recited in claim 1. However, contrary to the assertions of the Office actions, Velissaropoulos et al. also fails to teach or suggest processing a set of data access transaction even when the respective application does not recognize an optional data item. As described in previous submissions (e.g., the response to the final Office action of March 10, 2009, and the Pre-Appeal Brief Request for Review filed on

December 10, 2009) and in greater detail below, the system described by Velissaropoulos et al. does not manage instances in which an application does not recognize a data item and, therefore, cannot teach or suggest processing a set of data items even when a data item is not recognized, as recited in claim 1. To the contrary, Velissaropoulos et al. describes that a command portion “must be recognized by all receivers.”

Velissaropoulos et al. describes a data transmission dictionary for encoding, storing, and retrieving data transmission information. In the system described by Velissaropoulos et al., commands are conveyed to servers to request an execution of a function. Velissaropoulos et al. describes parameters that are sent with the commands. The parameters are generally associated with a set of attributes or characteristics. One of the attributes described by Velissaropoulos et al. that may be conveyed with a command is ‘Ignorable.’ Velissaropoulos et al. describes an Ignorable attribute as one that may be ignored by a receiver of a corresponding command if the receiver does not provide the support requested. In other words, Velissaropoulos et al. describes receiving a command and recognizing that an attribute of the command indicates that the command may be ignored.

The Office action asserts that the Ignorable attributes described by Velissaropoulos et al. cure the admitted deficiencies of Cloud et al. and Messenger et al. regarding the claim recitation of processing of a set of data items even when applications do not recognize an optional data item. However, in stark contrast to the method recited in claim 1, the commands including the Ignorable attributes of Velissaropoulos et al. are always recognized by the applications receiving the Ignorable attributes. In the system described by Velissaropoulos et al., the applications receiving the Ignorable attributes are configured to expect and recognize parameters designated as ignorable, but are given the option to process Ignorable attributes differently than, for example, Required parameters.

For example, a first application in Velissaropoulos et al. that receives a parameter may be provided with an option to ignore the parameter. To identify this as an option, the first application must recognize the parameter and must be able to recognize the designation of the parameter as an Ignorable attribute. For this reason, Velissaropoulos et al. explicitly requires recognition of each type of attribute (e.g., Required attributes, Optional attributes, and Ignorable attributes) of the associated commands. In fact, the cited portion of Velissaropoulos et al. (column 15, lines 57-62) regarding Ignorable attributes states that the “parameter codepoint [a part of the command] **must be recognized by all receivers.**” (emphasis added).

In such a system, the sender of a command chooses to designate parameters as having one of the attributes described above (i.e., Required, Optional, or Ignorable) for a certain purpose. For the designations (e.g., attributes of the parameters of a command) sent by the sender and/or creator of the command to be carried out, the applications receiving the command must be able to identify the assigned attribute of each parameter. That is, the applications described by Velissaropoulos et al. do not receive unexpected or unrecognizable data items. Therefore, Velissaropoulos et al. is silent as to responding to a data item that an application does not recognize because all commands of Velissaropoulos et al. are recognized, albeit some are ignored after the recognition.

Accordingly, as Velissaropoulos et al. teaches nothing regarding the processing of unrecognized parameters, Velissaropoulos et al. cannot cure the admitted deficiencies of Cloud et al. and Messenger et al. At least because none of Cloud et al., Messenger et al., Velissaropoulos et al., or any combination thereof teaches or suggests the method of claim 1, the applicants respectfully request withdrawal of the §103 rejections of claim 1 and all claims dependent thereon (i.e., dependent claims 2-9).

3. Independent claim 10

Independent claim 10 recites a system including, *inter alia*, a processor to transmit a set of data access transactions to a plurality of applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the plurality of applications are to process the set of data access transactions even when the plurality of applications do not recognize the first optional data item.

4. The §103 rejection of independent claim 10

Velissaropoulos et al. is cited in the §103 rejection of claim 10 because Cloud et al. and Messenger et al. admittedly fail to teach or suggest applications processing a set of data access transactions even when the applications do not recognize an optional data item, as recited in claim 1. However, in contrast to the assertions of the Office action, Velissaropoulos et al. also fail to teach or suggest processing a set of data access transaction even when the respective application does not recognize an optional data item. Rather, Velissaropoulos et al. recognizes all commands, but may ignore certain commands.

Accordingly, none of Cloud et al., Messenger et al., Velissaropoulos et al., or any combination thereof teaches or suggests the system of claim 10. Therefore, for at least this reason, the applicants respectfully request withdrawal of the §103 rejections of claim 10 and all claiming dependent thereon (i.e., dependent claims 11-19).

5. Independent claim 20

Independent claim 20 recites a computer-readable storage medium comprising a set of instructions to direct a processor to, *inter alia*, transmit a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data

access transactions even when the plurality of applications do not recognize the first optional data item.

6. The §103 rejection of independent claim 20

Velissaropoulos et al. is cited in the §103 rejection of claim 20 because Cloud et al. and Messenger et al. admittedly fail to teach or suggest applications processing a set of data access transactions even when the applications do not recognize an optional data item, as recited in claim 20. However, in contrast to the assertions of the Office action, Velissaropoulos et al. also fail to teach or suggest processing a set of data access transaction even when the respective application does not recognize an optional data item. Rather, Velissaropoulos et al. recognizes all commands, but may ignore certain commands.

Accordingly, none of Cloud et al., Messenger et al., Velissaropoulos et al., or any combination thereof teaches or suggests the system of claim 20. Therefore, for at least this reason, the applicants respectfully request withdrawal of the §103 rejections of claim 20.

Conclusion

In view of the foregoing, the applicants respectfully submit that all pending claims are in condition for allowance.

Respectfully submitted,

Dated: July 28, 2010

/Daniel J. Glitto/

Daniel J. Glitto
Reg. No. 58,996

Hanley, Flight & Zimmerman, LLC
150 South Wacker Drive, Suite 2100
Chicago, IL 60606
Tel: (312) 580-1020
Fax: (312) 580-9696

APPENDIX A

1. (Rejected) A method comprising:

(a) transmitting a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item; and

(b) integrating the set of responses received from the respective applications.

2. (Rejected) The method of claim 1 further comprising, before (a), receiving a request from a second application, the second application being different from the respective applications.

3. (Rejected) The method of claim 2, wherein the request is transmitted by the second application in response to user initiation.

4. (Rejected) The method of claim 2, wherein the request is transmitted by the second application in response to intelligent agent software initiation.

5. (Rejected) The method of claim 2, wherein the request is transmitted by the second application using a web browser.

6. (Rejected) The method of claim 2 further comprising automatically identifying the set of data access transactions from the request.

7. (Rejected) The method of claim 1 further comprising returning the integrated set of responses to a second application, the second application being different from the respective applications.

8. (Rejected) The method of claim 1 further comprising: receiving user identification information from a second application, the second application being different from the respective applications; and verifying the received user identification information by accessing a user profile database.

9. (Rejected) The method of claim 1, further comprising computing a fee for using the respective applications by accessing a user profile database.
10. (Rejected) A system comprising:
 - a plurality of applications; and
 - a processor in communication with the plurality of applications, the processor being operative to transmit a set of data access transactions to the respective applications and integrate a set of responses to the set of data access transactions from the respective applications;

wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the plurality of applications are operative to process the set of data access transactions even when the plurality of applications do not recognize the first optional data item.
11. (Rejected) The system of claim 10 further comprising a second application in communication with the processor, the second application being different from the plurality of applications.
12. (Rejected) The system of claim 11, wherein the second application is operative to transmit a request to the processor.
13. (Rejected) The system of claim 12, wherein the second application is operative to transmit the request in response to user initiation.
14. (Rejected) The system of claim 12, wherein the second application is operative to transmit the request in response to intelligent agent software initiation.
15. (Rejected) The system of claim 12, wherein the second application is operative to transmit the request in response to user interaction with a web browser.
16. (Rejected) The system of claim 12, wherein the processor is further operative to automatically identify the set of data access transactions from the request.

17. (Rejected) The system of claim 11, wherein the processor is further operative to return the integrated set of responses to the second application.

18. (Rejected) The system of claim 10, wherein the processor is further operative to receive user identification information from a second application and verify the received user identification information by accessing a user profile database, the second application being different from the plurality of applications.

19. (Rejected) The system of claim 10, wherein the processor is further operative to compute a fee for using the respective applications by accessing a user profile database.

20. (Rejected) A computer-readable storage medium comprising a set of instructions to direct a processor to perform acts of:

transmitting a set of data access transactions to respective applications, wherein at least some of the set of data access transactions comprise a first optional data item, and wherein the respective applications process the set of data access transactions even when the respective applications do not recognize the first optional data item; and

integrating the set of responses received from the respective applications.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None